

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CURTIS M. COLLINS,)
)
)
Plaintiff,) C.A. No. 05-739-SLR
)
v.)
)
WARDEN RICK KEARNEY, et al.,)
)
)
Defendants.)

**DEFENDANTS RICK KEARNEY, JAMES CHANDLER, AND
BRADLEY BEREZANSKY'S MOTION FOR LEAVE TO DEPOSE PLAINTIFF**

COMES NOW, the Defendants Rick Kearney, James Chandler, and Bradley Berezansky (“Defendants Kearney, Chandler and Berezansky”),¹ by and through their undersigned counsel, and hereby move this Honorable Court (the “Motion”) to enter an order, substantially in the form attached hereto, granting Defendants Kearney, Chandler and Berezansky leave to depose Plaintiff Curtis M. Collins (“Collins”). In support of the Motion, Defendants Kearney, Chandler and Berezansky state as follows:

1. Plaintiff, Collins is an inmate incarcerated at the Delaware Correctional Center in Smyrna, Delaware.

2. Counsel for Defendants Kearney, Chandler and Berezansky wishes to depose Collins as part of discovery in this case.

3. The scheduling order entered in this matter set the discovery deadline for August 25, 2006 (D.I. 19).

¹ Defendants C/O Milligan, C/O Daisey and C/O Irvin Johnson have been named as defendants in this action. It appears from the docket, however, that these defendants have not been served. Therefore these defendants are not a party to this Motion.

4. Superior Court Civil Rule 30(a) requires leave of the Court to depose an incarcerated individual.

5. A form of order is attached to this Motion that grants Defendants Kearney, Chandler and Berezansky's counsel the right to depose Collins.

WHEREFORE, Defendants Kearney, Chandler and Berezansky respectfully request that this Honorable Court enter an order, substantially in the form attached hereto, granting their Motion for Leave to Depose Plaintiff Curtis M. Collins.

**DEPARTMENT OF JUSTICE
STATE OF DELAWARE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)
Deputy Attorney General
820 N. French Street, 6th Floor
Wilmington, DE 19801
(302) 577-8400
Attorney for Defendants Rick Kearney,
James Chandler, and Bradley
Berezansky

Dated: July 18, 2006

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CURTIS M. COLLINS,)
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Plaintiff,) C.A. No. 05-739-SLR
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)
Defendants.)

ORDER

Upon Defendants Rick Kearney, James Chandler, and Bradley Berezansky's Motion For Leave To Depose Plaintiff (the "Motion"); and it appearing that good and sufficient notice of the Motion has been given; and after due deliberation thereon:

IT IS HEREBY ORDERED as follows:

1. The Motion is **GRANTED**.
2. Defendants are granted leave to depose the Plaintiff in this matter.

SO ORDERED this _____ day of _____, 2006.

The Honorable Sue L. Robinson
United States District Court Judge

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CURTIS M. COLLINS,)
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Defendants.)

7.1.1 CERTIFICATE OF COUNSEL

The undersigned counsel hereby certifies, pursuant to Rule 7.1.1 of the Local Rules for the District Court of Delaware, that she is, as a practical matter, unable to discuss the subject of this Motion with the Plaintiff because the Plaintiff is an incarcerated inmate in a prison. Defense counsel assumes that the Plaintiff opposes this Motion.

**DEPARTMENT OF JUSTICE
STATE OF DELAWARE**

/s/ Erika Y. Tross _____

Erika Y. Tross (#4506)
Deputy Attorney General
820 N. French Street, 6th Floor
Wilmington, DE 19801
(302) 577-8400
Attorney for Defendants Rick Kearney,
James Chandler, and Bradley
Berezansky

Dated: July 18, 2006

CERTIFICATE OF SERVICE

I, Erika Y. Tross, Esq., hereby certify that on July 18, 2006, I caused a true and correct copy of the attached *Defendants Rick Kearney, James Chandler, and Bradley Berezansky's Motion For Leave To Depose Plaintiff* to be served on the following individual in the form and manner indicated:

NAME AND ADDRESS OF RECIPIENT:

Inmate Curtis M. Collins
SBI #00314128
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

MANNER OF DELIVERY:

- One true copy by facsimile transmission to each recipient
- Two true copies by first class mail, postage prepaid, to each recipient
- Two true copies by Federal Express
- Two true copies by hand delivery to each recipient

/s/ Erika Y. Tross

Erika Y. Tross (#4506)
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